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Wednesday, September 22, 2004

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TO ALL PARTIES ON THE ATTACHED SERVICE LIST

Re: Arne Dale Anderson
Chapter 7 Bankruptcy; Case #04-51051 (GFK)
Our File No. 14776-81

Dear Sir or Madam:

Enclosed hereby and served upon you in connection with the above-referenced case please find the following:

1. Notice of Hearing and Motion for Relief from Stay;
2. Memorandum of Law;
3. Propose Order Modifying Automatic Stay; and
4. Unsworn Verification and Declaration Regarding Electronic Filing.

Sincerely,

/e/ Greg C. Gilbert

Greg C. Gilbert

GCG/smo
Enclosure

cc: Ms. Mary Ives

SERVICE LIST

RE: Arne Dale Anderson
Chapter 7 Bankruptcy; Case #04-50999 (RJK)
Our File No. 14776-81

Arne Dale Anderson
P.O. Box 16055
Duluth, MN 55816

Chapter 7 Trustee
Office of the U.S. Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Bky No. 04-51051 (GFK)

ARNE DALE ANDERSON,

Chapter 7 Case

Debtor.

NOTICE OF HEARING AND MOTION FOR RELIEF FROM STAY

TO: Debtors and other entities specified in Local Rule 9013-3.

1. GHI Investments, d/b/a Vintage Acres ("Movant") hereby gives notice that a hearing on its Motion for Relief from Stay will be held at 1:30 p.m. on October 6, 2004 in Courtroom No. 2, at the U.S. Bankruptcy Court, U.S. Courthouse, at 515 West First Street, Duluth, Minnesota, or as soon thereafter as counsel can be heard.

2. Any response to this motion must be filed and delivered not later than October 1, 2004, which is three (3) days before the time set for the hearing (excluding Saturdays, Sundays and holidays), or filed and served by mail not later than September 27, 2004, which is seven (7) days before the time set for hearing (excluding Saturdays, Sundays and holidays). UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.

3. Movant brings this motion pursuant to 11 U.S.C. § 362 and Bankruptcy Rule 4001. This motion is filed under Bankruptcy Rule 9014 and Local Rules 900-1 to 9019-1. This proceeding involves a state court eviction action by Movant to have Debtor removed from a lot at Movant's manufactured home lot pursuant to the terms of the lease.

4. The Court has authority to hear and finally determine this motion pursuant to 28 U.S.C. §§ 1334 and 157, 11 U.S.C. § 362(d), and Bankruptcy Rule 5005 and Local Rule 1070-1. The determination of this motion constitutes a core proceeding pursuant to 11 U.S.C. § 157(b)(2)(G). The petition commencing this Chapter 7 case was filed on September 7, 2004. Debtors' case is now pending in the Court.

5. On or about February 20, 2004, Debtor Arne Dale Anderson took possession of and started residing in a manufactured home he may have purchased from Rory Tessor, at 5 Griak Drive, Duluth, MN 55805 ("premises"). Movant leased manufactured home lot at 5 Griak Drive to Rory Tessor. Rory Tessor assigned his interest in the lease to Debtor in violation of the terms of the lease.

6. On or about June 1, 2004, Movant commenced an unlawful detainer action in St. Louis County District Court to evict Debtor from the premises. At the court hearing, the parties entered into a settlement agreement which provided that Debtor would vacate the premises no later than August 31, 2004.

7. On or about September 1, 2004, the Court issued a Writ of Recovery in Eviction in favor of Movant ordering the St. Louis County Sheriff to remove Debtor from the premises, a copy of which is attached as Exhibit A. Debtor filed his petition on September 7, 2004, before the sheriff's office could execute the writ.

8. With respect to property of Debtor or the Estate, 11 U.S.C. § 362(d)(2) provides that the Court may terminate or modify the automatic stay if:

- (a) The debtor does not have an equity in such property; and
- (b) Such property is not necessary to an effective reorganization.

The Court may also modify the automatic stay for cause, including the lack of adequate protection of an interest in property of such party in interest. 11 U.S.C. § 362(d)(1).

9. Movant requests that the Court grant relief pursuant to 11 U.S.C. § 362(d)(1) and (2) on the grounds that Debtor has no equity in the leasehold interest in the premises, and that the leasehold interest is not necessary to an effective reorganization. Further, Movant does not have adequate protection of the premises because Debtor remains in the premises in violation of court order.

WHEREFORE, Movant, by its undersigned attorneys, requests relief from the automatic stay provided by 11 U.S.C. § 362(a) for itself and its successors and assignees to evict Debtor from the premises and for such other relief as may be just and equitable.

Dated: September 22, 2004

JOHNSONS, KILLEN & SEILER, P.A.

By /e/ Greg C. Gilbert
Greg C. Gilbert #167320

230 W. Superior Street, Suite 800
Duluth, MN 55802
(218) 722-6331
*Attorneys for GHI Investments, d/b/a
Vintage Acres*

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Bky No. 04-51051 (GFK)

ARNE DALE ANDERSON,

Chapter 7 Case

Debtor.

MEMORANDUM OF LAW

GHI Investments, d/b/a Vintage Acres, ("Movant") has moved for relief from the stay provided by 11 U.S.C. § 362(a) with respect to property of the estate or Debtors as described in the motion. The facts are set forth in the motion. Movant requests relief under 11 U.S.C. § 362(d)(2) and § 362(d)(1).

With respect to property of Debtors or the estate, 11 U.S.C. § 362(d)(2) provides that the Court may terminate or modify the automatic stay if:

- a. The debtor does not have an equity in such property; and
- b. Such property is not necessary to an effective reorganization.

Movant requests that the Court grant relief pursuant to 11 U.S.C. § 362(d)(2). Debtor's leasehold interest in the property has no value and, therefore, debtor does not have any equity in the property. The property is not necessary for an effective reorganization.

11 U.S.C. § 362(d)(1) authorizes the Court to grant a creditor relief from the automatic stay for "cause", which includes the "lack of adequate protection of an interest in property of [the creditor]". Movant is not adequately protected as contemplated by 11 U.S.C. § 361 because Debtor remains in possession of the premises to the exclusion of Movant and in violation of a court order giving Movant possession of the premises.

Dated: September 22, 2004

JOHNSONS, KILLEN & SEILER, P.A.

By /e/ Greg C. Gilbert

Greg C. Gilbert

#167320

230 W. Superior Street, Suite 800

Duluth, MN 55802

(218) 722-6331

*Attorneys for GHI Investments, d/b/a
Vintage Acres*

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Bky No. 04-51051 (GFK)

ARNE DALE ANDERSON,

Chapter 7 Case

Debtor.

ORDER MODIFYING AUTOMATIC STAY

This matter came before the Court for hearing on October 6, 2004, on the motion of GHI Investment, d/b/a Vintage Acres, for relief from the automatic stay to evict Debtor from the premises at 5 Griak Drive, Duluth, MN 55808.

Appearances of counsel were noted on the record. Counsel were heard. Based upon the verified Motion of Movant, supporting Memorandum, the files and records herein, and arguments of counsel:

IT IS HEREBY ORDERED that the automatic stay provided by 11 U.S.C. § 362(a) is modified to allow GHI Investment, d/b/a Vintage Acres, and/or the St. Louis County Sheriff's office to remove and evict Debtor from the premises at 5 Griak Drive, Duluth, MN 55808. Notwithstanding Fed. R. Bankr. P. 4001(a)(3), this order is effective immediately.

Dated: _____, 2004

Gregory F. Kishel
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

ARNE DALE ANDERSON,

Debtor.

Blky No. 04-51051 (GFK)

Chapter 7 Case

UNSWORN VERIFICATION AND DECLARATION REGARDING
ELECTRONIC FILING

MARY F IVES declares under penalty of perjury under the laws of the United States that:

1. I am Gen. Mgmt. Rep. for GHI Investments, d/b/a/ Vintage Acres ("Movant") and I have been duly authorized by it to verify Movant's Motion for Relief from Stay dated September 22, 2004 (the "Motion") to be filed in the above captioned bankruptcy case.
2. I have read the Motion, know its contents, and state the same are true and correct to the best of my knowledge, information and belief.
3. I understand that our attorney will scan this Verification and save it in a PDF format to be inserted into the electronic submission of this motion.
4. I consent to the Motion being filed electronically by our attorney with the Clerk of the United States Bankruptcy Court, and that Movant's attorney, Johnson, Killen & Seiler, P.A., will retain the original in its file.

Dated: September 22, 2004

Mary F Ives

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Chapter 7
Bky. No. 04-51051 (GFK)

ARNE DALE ANDERSON,

Debtor.

AFFIDAVIT OF SERVICE BY MAIL

STATE OF MINNESOTA)
)ss.
COUNTY OF ST. LOUIS)

Mary M. Pearson, of the City of Duluth, County of St. Louis, in the State of Minnesota, being duly sworn, says that on the 22nd day of September, 2004, she served the attached:

1. Notice of Hearing and Motion for Relief from Stay;
2. Memorandum of Law;
3. Unsworn Verification and Declaration Regarding Electronic Filing; and
4. Proposed Order

by mailing first class mail, true and correct copies thereof, enclosed in envelopes, postage prepaid, and by depositing same in the post office at Duluth, Minnesota, directed to:

Arne Dale Anderson
P.O. Box 16055
Duluth, MN 55816

Chapter 7 Trustee
Office of the U.S. Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

/e/ Mary M. Pearson
Mary M. Pearson